

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI

**JOHN W. STONE OIL DISTRIBUTOR,  
L.L.C.**

*Plaintiff,*

**VERSUS**

**M/V DANA K, her engines, tackle, furniture,  
apparel, appurtenances, etc., *in rem*  
*Defendant.***

**CIVIL ACTION NO: 1:22-cv-00151-LG-  
RPM**

**DISTRICT JUDGE: LOUIS GUIROLA,  
JR.**

**MAGISTRATE JUDGE: ROBERT P.  
MYERS, JR.**

**ORDER FOR SECOND JUDICIAL AUCTION OF VESSEL**

Considering the foregoing *Ex Parte Motion for Second Judicial Auction of Vessel* (Rec. Doc. 34) and the Court having already found that an interlocutory sale is warranted under the applicable law (Rec. Doc. 17);

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the United States Marshal for the Southern District of Mississippi (“U.S. Marshal”) be, and is hereby, directed to sell the M/V DANA K, Official No. 501183, her engines, tackle, furniture, apparel, appurtenances, etc. (the “Vessel”) to the highest bidder at a public auction pursuant to this *in rem* decree;

**IT IS FURTHER ORDERED** that the auction will be held by the U.S. Marshals on Thursday, December 16, 2022, at 8:30 a.m., CDT. The auction will again be held in the lobby of the Dan M. Russell, Jr., United States Courthouse, 2012 15th Street, Gulfport, Mississippi 39501;

**IT IS FURTHER ORDERED** that the Vessel shall be sold “as is, where is,” and free and clear of all liens, claims, and encumbrances of any nature whatsoever, whether recorded or not;

**IT IS FURTHER ORDERED** that Plaintiff, John W. Stone Oil Distributor, L.L.C. (“Stone Oil”), shall advertise notice of the auction pursuant to Local Admiralty Rule E(16) in the *Biloxi Sun Herald* on at least two different dates, the first must be at least seven (7) days before the

auction date, and the second must be at least three (3) days before the auction date. The notice will state the time and place where the auction will be conducted and will provide information on how prospective bidders may arrange to board the Vessel for the purposes of inspection. The notice will also advise that the highest bidder will be required to deliver to the United States Marshal by 2:00 p.m. on the day of the auction, in cash or by certified check or cashier's check, earnest money of at least ten percent (10%) of the bid price, the balance thereof to be paid, in cash or by certified check or cashier's check, within three (3) working days of the date of the successful bid, or in the event of an objection to the confirmation of the sale, within three (3) working days of the adjudication or dismissal of any opposition to the confirmation which may have been filed. The costs of advertisement and an affidavit of publication will constitute taxable costs in this action;

**IT IS FURTHER ORDERED** that Stone Oil is permitted to, but not required to, advertise the auction in other publication(s) of its choosing, with the reasonable expenses of marketing and publication to be charged as a *custodia legis* expense;

**IT IS FURTHER ORDERED** that any prospective buyers wishing to inspect the Vessel must first present himself or herself, along with photo identification, to the office of the U.S. Marshal and/or the Substitute Custodian. The Vessel presently lies at 16005 Race Track Road, Biloxi, Mississippi, 39532;

**IT IS FURTHER ORDERED** THAT SHOULD A POTENTIAL BUYER REQUEST TO VIEW THE VESSEL IN PERSON, THE POTENTIAL BUYER AGREES TO HOLD HARMLESS AND INDEMNIFY THE SUBSTITUTE CUSTODIAN AND THE U.S. MARSHAL AND ALL OF HIS DEPUTIES FROM ANY AND ALL LIABILITY ARISING THEREUPON;

**IT IS FURTHER ORDERED** that in the event that the Vessel is not sold at the auction, then a third auction may be ordered upon *ex parte* motion by Stone Oil;

**IT IS FURTHER ORDERED** that at the conclusion of the auction, the U.S. Marshal shall forthwith report to the Court the fact of the sale, the price brought, and the name and address of the buyer;

**IT IS FURTHER ORDERED** that after this Court has confirmed the sale of the Vessel, the U.S. Marshal shall deliver a Bill of Sale for the Vessel to the confirmed purchaser;

**IT IS FURTHER ORDERED** that all charges incurred or commissions charged by the U.S. Marshall and/or the Substitute Custodian (including but not limited to dockage, wharfage, and insurance), all other court-approved charges incurred by Stone Oil or any other court-approved charges, with respect to the maintenance and safe-keeping of the Vessel, and all costs of marketing and advertisement of the notice of sale and notice of seizure shall be taxed in priority as *custodia legis* expenses of the Vessel against the proceeds of the sale;

**IT IS FURTHER ORDERED** that the U.S. Marshal shall deposit any proceeds of the sale into the Court registry pending further order of the Court, unless the Vessel is purchased via a credit bid;

**IT IS FURTHER ORDERED** that the Clerk of Court is directed to deposit the funds into an interest-bearing account; and

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this case for such further proceedings as may be appropriate.

**DONE and ORDERED** in Gulfport, Mississippi, this 8<sup>th</sup> day of December, 2022.

  
DISTRICT JUDGE LOUIS GUIROLA, JR.

**Order Submitted by:**

**/s/ Jacques P. DeGruy**

Aaron B. Greenbaum (MS Bar #105190)

Jacques P. DeGruy (LA Bar #29144)\*

*\*Admitted Pro-Hac Vice*

**Attorneys for Plaintiff, John W. Stone**

**Oil Distributor, L.L.C.**